THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.16919 OF 1996

DATED: 13-03-2007

Between:

Smt K. Lakshmi Janakamma

.. Petitioner

and

The Registrar, Sri Venkateswara University,
Tirupati and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.16919 OF 1996

ORDER:

This writ petition is filed seeking a mandamus to direct the respondents to regularize the services of the petitioner from the date of her appointment with a regular scale of pay applicable to the post of Lecturer and with all consequential benefits.

It appears, the petitioner is a Post Graduate (M.Sc.) with M.Phil qualification. Now it is brought to the notice of the Court that the petitioner has also obtained Doctorate. Pursuant to the advertisement issued by Sri Venkateswara University inviting applications to the post of Instructor (Full Time) in 'Foods & Nutrition', dated 29.12.1987, selection process was conducted by the Selection Committee, in which the petitioner was selected and appointed as Full Time Instructor with effect from 27.02.1988, on a consolidated monthly salary of Rs.2,000/-. Since then, she has been discharging duties to the satisfaction of one and all. Her salary is being paid by the University. The Middle Level Training Center (for short 'MLTC'), in which the petitioner was appointed as Instructor, is a wing of Home Science Department of the University. The Head of the Department of Home Science is the Coordinator of the Training Center. 'Applied Nutrition' is a Post Graduate Diploma Course conducted by the Home Science Department. As per the directions of the 2nd respondent, the petitioner has been teaching the subject of 'Foods & Nutrition' to the students of the said course, ever since the course started in the month of November 1993, without any remuneration. While that being so, the University issued

advertisement on 17.12.1993 calling for applications from the eligible candidates to fill up three posts of Lecturers. Thereupon, the petitioner made representation to the authorities for her absorption in any one of those posts in view of her long service in the University. She also brought to the notice of the authorities G.O.Ms.No.212 dated 22.04.1994 under which directions were issued by the Government for regularization of the services of all the employees who have completed five years of service. But, the authorities have not responded favourably and proceeded with the notification. However, the said notification was struck down by this Court. Further, on 20.10.1995, the petitioner submitted a representation to the authorities of the1st respondent-University bringing to their notice the onerous duties with which she was entrusted and stating that the trainees, for whom training is imparted, are being paid salaries as per time scale of pay, but the Instructors in MLTC, who train them, are working on a consolidated pay without regularization of their services. Since there was no response from the authorities, the present writ petition is filed.

A detailed counter-affidavit has been filed on behalf of the 1st respondent denying the allegations made by the petitioner. It is asserted in the counter-affidavit that each and every post of Lecturer should be advertised and a statutory selection committee constituted under Section 43 of A.P. Universities Act (for short 'the Act') should make recommendations, and, on the basis of the said recommendations, the Executive Council of the University has to make appointments, following the rule of reservation. Further, it is stated that Section 49 of the Act does not permit the University to create any post without prior approval of the State Government. The post of Instructor in MLTC, in which the petitioner was appointed, is not a post included in the budget of the University. MLTC is a programme sponsored by National Institute of Public Cooperation and Child Development (NIPCCD), New Delhi, and the said Institute monitors the MLTC programme and releases grants every year to meet the expenditure incurred thereon including the salaries of the persons like petitioner employed in the said programme. University funds will not be spent for the same. The said

programme will be carried on so long as NIPCCD desires so. MLTC is functioning under the supervision of the Coordinator, who is either the Head of the Department of Home Science or next senor most faculty member, who may be nominated by the Head of NIPCCD. There are several other programmes and projects, like MLTC, sponsored by several agencies, who meet the expenditure for the said programmes and projects, and the University has no financial commitment for the same. The said programmes and projects use to be entrusted to the University, as expertise is available in the University, to make them function effectively. In the strict sense, they cannot be said to be part and parcel of the University, especially, in the matter of financial commitment. Salaries applicable to various posts in these projects and programmes are different and distinct from the budgeted posts available in the University. The method of recruitment to the posts of said programmes and projects is not the one prescribed in A.P. Universities Act, which is meant for the posts of Lecturers in the University. Further, the University administration never entrusted teaching job to the petitioner as claimed by her. The petitioner has, absolutely, no right to seek regularization of her services in the University and absorption in any one of the Lecturer posts. G.O.Ms.No.212 dated 22.04.1994 is not applicable to the case of the petitioner. The petitioner is, however, at liberty to apply for the post of Lecturer, as and when notification was issued, and, if the petitioner fulfils the eligibility criteria, she will be considered along with others, as per rules. The writ petition is devoid of merits and is liable to be dismissed.

Heard both sides.

The learned counsel for the petitioner strenuously contended that the persons, employed in various projects entrusted to the University by various agencies, were absorbed in the regular posts of Lecturers in different subjects, as per the recommendation of the Registrar of the University, by the Government. In this regard, the learned counsel for the petitioner invited the attention of the Court to G.O.Ms.No.4 Finance and Planning Department dated 01.02.1993, G.O.Ms.No.37 Finance and Planning Department dated

11.07.1997, G.O.Ms.No.22 Finance and Planning Department dated 29.03.1993 and G.O.Ms.No.20 Finance and Planning Department dated 29.03.1993, to show that the persons, who were appointed against temporary vacancies in the projects sponsored by various agencies, on the recommendation made by the Registrar of the University, were absorbed in the regular posts of Lecturers, under the mode of appointment by transfer. The MLTC scheme is being extended from time to time and the petitioner, even as on today i.e. nearly after twenty years of her appointment, is being continuing as Instructor in the subject of 'Foods & Nutrition' in Home Science Department of the University.

The petitioner has placed on record various certificates issued by the Heads of the Departments to show that her services are being utilized as a Lecturer in the University, particularly, in the Home Science Department for the subject of 'Foods & Nutrition'. Thus, it is very clear that the petitioner, after completing M.Sc., and M.Phil., joined as Instructor in MLTC programme and has been teaching the subject of 'Foods & Nutrition' in Home Science Department for the last twenty years.

Under these circumstances, the 1st respondent-University is directed to recommend the case of the petitioner to the 4th respondent, on par with those who are involved in the above said G.Os., for her absorption in any of the regular vacant posts of Lecturer/Demonstrator in the University, taking into consideration her qualifications, experience and long service rendered by her. On such recommendation, the 4th respondent shall consider the same in the light of the above G.Os. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. However, till finalization of the exercise, the services of the petitioner shall not be disturbed.

With the above directions, the writ petition is disposed of. There shall be no order as to costs.

_____

C.V. RAMULU, J

13th March, 2007.

Note:-

Issue order copy
in ten days.

–
BO
IBL

–

–